

December 2, 2015

Mr. David Slovak
Lewis, Slovak, Kovacich & Snipes, P.C.
P.O. Box 2325
725 3rd Avenue North
Great Falls, Montana 59403

Dear Dave,

I write to respond to your letter to Luke Pokorny dated November 17, 2015 concerning landowner access agreements. You requested that we provide you with a list showing which of your clients received a cleanup offer and access agreement. That list is enclosed with this letter. Also, we understand that Mr. Pokorny sent your office a copy set of every letter, work plan, and access agreement at the same time that he sent those documents to your clients. Those letters and work plans describe in detail the work that Atlantic Richfield proposes for your clients' properties.

You will see that the list of landowners who are receiving a cleanup offer has changed somewhat since the time cleanup offers were extended to some of your clients in April 2013, so a brief explanation may be helpful. In April 2013, Atlantic Richfield proposed soil cleanup work for your clients according to the action levels for arsenic adopted by the United States Environmental Protection Agency ("EPA") for the Anaconda Smelter Superfund Site, which encompasses your clients' properties. Mr. Pokorny's letters to your clients at that time emphasized that the "proposed cleanup will be subject to EPA review and/or approval before Atlantic Richfield can proceed." Notably, some of the proposed cleanups were for residential "yard" areas, while others were for non-yard "pasture" areas.

In a May 5, 2014 letter (a copy of which was sent to your office and is enclosed here), EPA informed Atlantic Richfield that, because of modifications to the Record of Decision ("ROD") for the Community Soils Operable Unit ("CSOU") that were made in September 2013, EPA believed it was "premature" to approve the cleanup plans until after finalization of a Remedial Action Work Plan/Final Design Report ("RAWP/FDR"). EPA explained that the proposed work plans would "probably have to be modified to some extent to conform with the soon-to-be-final RAWP/FDR for the CSOU." In discussions between Atlantic Richfield and EPA around the same time, EPA indicated that it would not approve the proposed "pasture" area cleanup work but would likely approve the proposed "yard" area cleanup work following finalization of and conformance to the RAWP/FDR.

In July 2015, EPA approved the final RAWP/FDR for the CSOU. The modified ROD and the RAWP/FDR include a new yard cleanup action level for lead. Following the RAWP/FDR's approval, Atlantic Richfield revised the work plans for your clients' properties to conform with EPA's new requirements and submitted those plans to EPA for approval in August 2015. In some instances, EPA's new requirements resulted in proposed cleanups for properties that were not previously included in the list of proposed yard area cleanups.

December 2, 2015

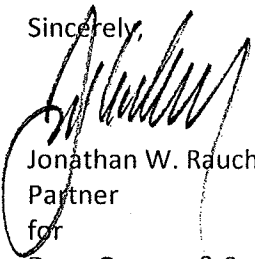
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On September 14, 2015, EPA approved the revised work plans for yard area cleanups on your clients' properties (see enclosed letter). On October 28, 2015, Atlantic Richfield sent letters, proposed work plans, and access agreements to those of your clients who are eligible for yard cleanups pursuant to EPA's requirements. As noted above, a complete copy set of those materials was also provided to your office.

In terms of timing, no yard cleanup work can proceed during the winter because of weather and ground conditions. Atlantic Richfield plans to commence the proposed work on your clients' properties in the spring of next year. As that time approaches, and after receiving the necessary access agreements, Mr. Pokorny will contact the individual landowners to coordinate the logistics for each cleanup. If you prefer that he communicate with your clients in some other way, please let me know.

I hope this explanation is helpful in clarifying the cleanup work that Atlantic Richfield proposes to conduct at your clients' properties in compliance with EPA's orders concerning the Anaconda Smelter Superfund Site. Your clients are welcome to reach out directly to Mr. Pokorny to address any of their questions or concerns. However, communications from legal counsel should be directed to counsel. Accordingly, if you or your legal team have further questions, please contact me.

Sincerely,



Jonathan W. Rauchway
Partner
for
DAVIS GRAHAM & STUBBS LLP

Enclosures (3)

cc: Andrew Lensink, EPA
John P. Davis, PRR

List of Plaintiff Properties Eligible for Yard Cleanups
Christian, et al. v. Atlantic Richfield Co.

For additional information, please see letters, work plans, and access agreements provided on October 28, 2015.

Landowner	Address of Property Eligible for Cleanup
Colwell, Duane	700 W. Rickards Street
Cooney, Franklin & Victoria	500 S. Hauser Street
Field, William J.	1002 Smith Street
Gress, Andrew & Frank	160 ABC Drive
Hoolahan, Shaun & Patrice	801 W. Rickards Street
Jones, Edward & Ruth	7 N Norris Street
Kelsey, Barbara	214 N. Schuyler Street
Krattiger, Douglas & Brenda	169 Ashleigh Drive
Minnehan, Ted & Judy	808 W. Stewart Street
Morse, Richard Dean	116 N. Preston Street
Mulcahy, Patrick William	100 Mulcahy Road
Myers, Serge & Nancy	8 N. Hauser Street, 10 N. Hauser Street & 6 S. Hauser Street
Peters, Judy Lee	308 S. Hauser Street
Reisenauer, Pete & Sue	1010 Rickards Street
Russ, Scott & Emily	3332 Crackerville Road
Schlosser, David & Ilona	1105 Stewart Street
Silzly, Rosemarie	19 S. Hauser Street & 1006 E. Stewart
Svendsen, James H.	1019 Crosby Street
Violette, Douglas	11 N. Norris Street
Walrod, Charles & Carol	700 Stewart Street
Zimmer, David & Toni	75 Ashleigh Drive



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

May 5, 2014

Ref: 8ENF-L

VIA EMAIL AND REGULAR MAIL

John P. Davis, Esq.
Poore, Roth & Robinson, P.C.
1341 Harrison Avenue
Butte, MT 59701

Jon Rauchway, Esq.
Davis, Graham & Stubbs LLP
1550 17th Street, Suite 500
Denver, CO 80202

Re: Individual Site Work Plans in connection
with the Christian litigation

Dear John and Jon:

This letter concerns the individual site work plans (ISWPs) forwarded to attorney Mark Kovacich in April of 2013 and copied to Charlie Coleman in EPA's Helena office. These ISWPs outline cleanups proposed by Atlantic Richfield under the Anaconda Regional Water, Waste and Soils (ARWWS) and Community Soils (CS) operable unit (OU) records of decision (RODs), on certain properties owned by plaintiffs in the Christian litigation. Any cleanup on these properties must be approved by EPA as they are all within the Anaconda Smelter NPL Site. As you know, the CS OU ROD was modified in September of 2013, after these ISWPs were proposed.

EPA continues to work with AR on a revised remedial action work plan/final design report (RAWP/FDR) and sampling and analysis plan (SAP) for implementing the 2013 change in



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cleanup requirements to the CS OU ROD. EPA continues to believe that it is premature to approve the plans submitted last year until the RAWP/FDR and SAP are final. The ISWPs will probably have to be modified to some extent to conform with the soon-to-be-final RAWP/FDR for the CS OU.

Please feel free to give me a call if you have questions about this.

Sincerely,

A handwritten signature in black ink, appearing to read "Andy Lensink".

Andrew J. Lensink
Sr. Attorney for Mining

cc: Mark Kovacich, Esq., Lewis, Slovak and Kovacich, P.C.
Luke Pokorny, Atlantic Richfield
Charlie Coleman, EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 W. 15th STREET, SUITE 3200
HELENA, MONTANA 59626

Ref: 8MO

September 14, 2015

Mr. Luke Pokorny
Atlantic Richfield Company
317 Anaconda Road
Butte, Montana 59701

Dear Luke:

EPA, in consultation with DEQ, approves, with comment, Atlantic Richfield's *Community Soils Operable Unit (CSOU) Opportunity Individual Site Work plans (ISWPs)*, dated August 28, 2015. EPA plans to issue a Unilateral Administrative Order to Atlantic Richfield shortly. Atlantic Richfield may proceed with RA planning activities.

If you have any questions, please give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles Coleman".

Charles Coleman
Anaconda Project Manager

cc: Andy Lensink, ENF-L
Joel Chavez, DEQ
Katherine-Haque-Hausrath, DEQ
Ken Brockman, BOR
Gunnar Emilsson, CDM
Connie Daniels, ADL

AR: Cord Harris, AR
Shannon Dunlap, AR
Jill Kelley, AR
John Davis, PRR
Kevin Bethke, TREC
Duane Logan, PTS



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**Comments to the Opportunity Area Individual Site Work Plans
Community Soils Operable Unit, Anaconda Smelter NPL Site
Prepared for Atlantic Richfield Company by Pioneer Technical Services, Inc.
August 28, 2015**

General Comments

The Individual Site Work Plans (ISWPs) were submitted to the U.S. Environmental Protection Agency (EPA) by the Atlantic Richfield Company (Atlantic Richfield) as a result of sampling conducted by Atlantic Richfield in response to litigation being pursued by a group of landowners in the community of Opportunity. This sampling was conducted without EPA oversight or approved Sampling and Analysis Plans (SAPs). In 2013, Atlantic Richfield submitted two data validation summary reports documenting the SAP, analytical laboratory data, and data validation activities:

- Data Validation Summary Report, Opportunity Residential Soils Sampling Results, Anaconda Smelter NPL Site. Prepared by Portage Inc., for Pioneer Technical Services, Anaconda, MT. October 2012
- Data Validation Summary Report, Opportunity Residential Soils Sampling Results, Anaconda Smelter NPL Site. Prepared by Portage Inc., for Pioneer Technical Services, Anaconda, MT. June 2013

EPA and DEQ completed reviews (attached) of these data validation summary reports and found the data to be of enforcement quality.

The Residential ISWPs consist of twenty-seven (27) residential properties where the area-weighted average arsenic concentration or component lead concentration in one of the 4 depth increments (0 to 2, 2 to 6, 5 to 12, and 12 to 18 inches) in the top 18 inches were determined to be greater than the residential cleanup action level (250 mg/kg arsenic and 400 mg/kg lead). The logic used in selecting the remedies proposed in the ISWPs is in accordance with the recently *approved Final Community Soils OU Residential Soils/Dust Remedial Action Work Plan/Final Design Report* dated August 7, 2015. As such these ISWPs can be approved with the following comment:

1. The design drawings continue to use the 125 foot circular radius from the centroid of the residence to demark the maximum extent of remediation. As was discussed in previous technical meetings, and agreed to by Atlantic Richfield, it makes more sense to base remediation units on the actual yard component, especially in the community of Opportunity where residential lots are reasonably well defined. Use of the 125 foot radius should be limited to true rural settings where yard components are not defined, such as a cabin surrounded by native vegetation with no lawn. The remedial units should be determined through the initial pre-construction walkthrough with the Agencies prior to construction.

End of comments.